

# My Vote Counts

California's Plan for Voting in the 21st Century



Secretary of State **KEVIN SHELLEY**

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HAVA: Help America Vote Act



# MY VOTE COUNTS:

## CALIFORNIA'S PLAN FOR VOTING IN THE 21ST CENTURY



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## EXECUTIVE SUMMARY

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Democracy in America is at a crossroads. Voter confidence in the voting process was shattered by the Florida experience in November 2000. Voter participation in the November 2002 General Election nationally was estimated to be a disappointing 39.9 percent.<sup>1</sup> (See endnotes) So many citizens today feel disconnected from the voting process.

In response to the crises in voter confidence and participation, the Congress passed and the President signed the Help America Vote Act of 2002 ("HAVA") in October of 2002. This federal law borrows much from California's steps to restore voter confidence and facilitate participation, including modernizing voting equipment. California led this effort with the Shelley-Hertzberg Voting Modernization Bond Act of 2002, Proposition 41, adopted by the voters in March of 2002.

California, however, has its own electoral crisis, as evidenced by the shockingly-low turnout of some 36 percent of our eligible citizens at the polls last November. As Secretary of State, I have no higher priorities than restoring voter confidence in the integrity of the voting process and increasing the participation of informed voters. To further these objectives, I appointed a 24-member Advisory Committee, made up of a diverse, cross-section of Californians, to assist me in drafting a plan for voting in the 21<sup>st</sup> Century.

The Committee held five public hearings — in Los Angeles, San Diego, San Francisco, Fresno and Sacramento. We heard from more than 250 Californians who shared their ideas with us about how to make the voting process more user-friendly and more secure and how best to implement the provisions of HAVA given the unique characteristics of our state in terms of size and diversity.

On June 17, 2003, I made available for public inspection and comment my Preliminary Plan, publishing notice to that effect. Thereafter, I issued a news release requesting inspection and comment, posted a copy of the Preliminary Plan in English and in Spanish on my official website and sent copies to interested individuals and organizations. The Preliminary Plan remained on public display until after July 17, 2003. I received 53 written comments regarding the Preliminary Plan.

The public testimony and input from the members of the Advisory Committee were very helpful in drafting my Preliminary Plan. In preparing my Final Plan, I have carefully considered the public testimony and the input from the members of the Advisory Committee and I have considered the additional comments of the public and the members of the Advisory Committee in response to my Preliminary Plan. The Final Plan reflects this input and comments.

"My Vote Counts" is a comprehensive road map to restoring voter confidence, a prerequisite to increased participation. "My Vote Counts" details how California will implement HAVA as part of our continuing challenge to make our voting process fairer, more accessible and more secure. Every eligible citizen must be able to say "My Vote Counts" and know it's true. My plan calls for:

- ♦ **Modernizing voting equipment.** Punch card voting machines will be replaced.
- ♦ **Making all polling places accessible to individuals with disabilities or with alternative language needs.** Every polling place will have at least one touch screen voting device.
- ♦ **Enhancing California's provisional voting process.** Provisional voters will be able to determine whether their votes were counted.
- ♦ **Augmenting the information provided to voters.** Voters will receive more information at their polling places and elsewhere.
- ♦ **Improving California's statewide voter registration database.**
- ♦ **Expanding California's efforts to inform eligible citizens about the voting process.** A greater effort will be made to reach eligible citizens, including young people, about voting.
- ♦ **Increasing the education and training of elections officials and poll workers.** Elections officials, including poll workers, will receive more education and training.
- ♦ **Improving California's complaint procedure.** California's existing complaint procedure regarding alleged elections law violations will be formalized and made more accessible.

Funding for the plan is based on funds authorized by HAVA and Proposition 41. At this point, the exact cost of implementation is impossible to pinpoint. Variables include the amount of money appropriated by Congress in subsequent years and the methods of implementation determined to be the most cost-effective. All expenditures will be subject to tough state and federal audit procedures.

I am determined to make "My Vote Counts" the defining phrase that captures the essence of voting in California.

KEVIN SHELLEY  
Secretary of State





# INTRODUCTION

California is defined by its superlatives, first among the states in population, economic energy and rich cultural, ethnic and language diversity. For generations it has been a magnet, attracting adventurers, risk takers and dreamers from around the world who have come to its valleys, mountains and seashores in search of a better life for themselves and for their children. And for many, the state's motto, Eureka — "I found it" — says it all. Indeed, many have found and continue to find California to be the land of opportunity.

California's electoral system reflects the state's unique size and diversity. It boasts a voting age population of some 21,588,461,<sup>2</sup> giving California 53 seats in the House of Representatives and more than 10 percent of the seats in the Electoral College. Federal elections are conducted by the state's 58 counties under the direction of the California Secretary of State, who serves as the state's Chief Elections Officer.<sup>3</sup> California's most populous county, Los Angeles, is the country's largest voting jurisdiction with a voting age population of 5,541,908, while its smallest county, Alpine, contains only 919 of voting age.<sup>4</sup>

The task of conducting error-free elections in California is staggering, made particularly challenging because of an array of circumstances that characterize California and reforms designed to further the opportunity for citizen participation in the political process. These include:

## PRECINCT NUMBERS

California has some 25,000 precincts. Staffing these polling places for statewide elections requires more than 100,000 reliable, trained poll workers in conveniently-located, disability-accessible sites. Recruiting and training sufficient poll workers, and locating appropriate polling places are continuing challenges for California elections officials.

## ELECTIONS MATERIALS

For each statewide federal election, California sends each household containing a registered voter a California Ballot Pamphlet with information regarding state ballot measures, statewide candidates, qualified political parties and other matters. In addition, each voter receives from local elections officials a sample ballot, a local ballot pamphlet, and other information. Additional elections materials are available on election official websites and at polling places. The tasks of preparing and providing the materials are staggering and reviewing the materials can be overwhelming to some voters.

## BALLOT COMPLEXITY

California is known for its ballot complexity. California ballots are often long, due to the numerous ballot measures and candidate races presented to voters, as well as the large number of political parties qualified to participate in California elections. The complexity of the ballot has a direct impact on voter turnout, complicating efforts to encourage citizen participation at the polls.

## THOUSANDS OF DIFFERENT BALLOT TYPES

In statewide primary elections, California elections officials must configure more than 60,000 different ballot types. Accordingly, the risks of providing the incorrect ballot type to a voter are high.

## GEOGRAPHY

California has some of the most urban and most rural areas in the country. Densely populated areas such as San Francisco bear little resemblance to the wide open expanses of Modoc County or the forests of Trinity County or the deserts of San Bernardino County, the largest county geographically in the country. Election processes reflect that geographic diversity, challenging elections officials and voters alike.

“ HAVA can and should and will be implemented in California as a continuing step in making the electoral process fairer, more accessible, and more secure so that every eligible citizen can say ‘My Vote Counts’ and know it to be true. ”

— California Secretary of State Kevin Shelley

## VOTING SYSTEMS

As of December 24, 2002, there were 19 companies whose 23 voting systems were certified for use in California. These included three basic categories of systems: Optical Scan, DRE/ Touchscreen, and Punch Card. A county is free to use any certified system, leading to widespread diversity among counties and even within counties, which often use one system in polling places and another to count absentee ballots. The array of available systems complicates the training of poll workers, makes educating voters and the media difficult and often confuses voters who move from one county to another.

## EARLY VOTING

Californians may start voting by mail and in person at various elections offices 29 days before an election. This early voting reduces the timeframe elections officials have to prepare for an election, has a direct impact on campaign strategy and creates additional choices for voters in terms of the timing of their voting.

## POLITICAL PARTIES

Currently, California has seven political parties qualified to participate in primary elections. California’s closed primary means that party-specific ballots must be prepared in primary elections for the voters registered with each party. Voters who have declined to affiliate with a political party have the option to vote in primary elections only for measures and non-partisan candidates, or to request a ballot to participate in the nomination process for a particular political party.

## PROVISIONAL BALLOTS

Since the 1980’s, California law has permitted a voter whose eligibility to vote cannot be immediately established at a polling place to cast a provisional ballot. At the 2002 General Election, some 200,000 provisional ballots were cast. It is estimated that only 60 percent of those ballots were ultimately counted. Provisional voting permits the handling of

disputes after Election Day but it also increases the need for additional training of poll workers, greater education of voters with respect to the provisional voting process, and may delay reporting the outcome of elections.

## VOTE-BY-MAIL

Increasingly voters are casting their ballots by mail rather than voting in person. At the November 2002 General Election, more than 27 percent of voters cast ballots by mail, compared to less than three percent of the voters in 1962. A recent law<sup>5</sup> allowing voters to become “permanent absentee voters” means that more and more voters are choosing to permanently vote from home. Voting by mail advances the timeline for elections officials to prepare for an election, often requires a different vote tabulating system from that used to tabulate votes cast in person, and sometimes delays announcing the outcome of elections since many vote-by-mail ballots are processed after election day. These issues especially affect overseas and military voters who, under California law, are entitled to special absentee voter status and can initiate a request for a ballot 60 days before an election.

## LANGUAGE DIVERSITY

In order to ensure that all citizens can participate in the electoral process and pursuant to Federal law, election materials are produced and oral assistance is provided in a variety of languages. For example, Los Angeles County provides ballots, sample ballots, and other materials, as well as oral assistance in seven languages: English, Chinese, Japanese, Korean, Spanish, Tagalog and Vietnamese. Some jurisdictions, in response to local need, provide written and oral assistance in other languages. This adds to the challenges of conducting an error-free election.

With challenges, however, come opportunities. California has been a leader in reforming the electoral system. In fact, many of the provisions in the federal Help America Vote Act of 2002 — HAVA<sup>6</sup> — are already a matter of law, regulation or procedure in California. For example:

- ♦ California provided for registration-by-mail in 1975 and vote-by-mail on demand in 1978;
- ♦ California provided for permanent absentee balloting in 2000;
- ♦ Californians adopted Proposition 41 in the March 2002 Primary Election, designed to partially fund the replacement of prescored punch card voting machines in California;
- ♦ California has a statewide voter registration database, known as Calvoter;
- ♦ California permits ballots to be corrected or replaced before being cast;
- ♦ Provisional ballots have been used in California since the 1980s;
- ♦ A statewide complaint procedure for making allegations about violations of elections laws is in place, including a toll-free telephone number, 1-800-345-VOTE, for making complaints;
- ♦ Extensive efforts are made to accommodate citizens from the disability and minority language communities.

And yet, much more needs to be done, as revealed by the turnout of voting age population of less than 37 percent at the last statewide election in November 2002. Restoring confidence in the integrity of the electoral system is critical if we are to bring voters back to the polls. Properly implemented, HAVA can be a cornerstone of California's efforts to reconnect citizens to the electoral process. On the other hand, as one prominent commentator pointed out during a recent public hearing on election reform, we must not let HAVA become the *Hurt America Vote Act*.

Indeed, HAVA can and should and will be implemented in California as a continuing step in making the electoral process fairer, more accessible, and more secure so that every eligible citizen can say "My Vote Counts" and know it to be true.

Properly implemented, HAVA can further efforts to reform the way elections are held in California and bring us one step closer to the day when:

- ♦ Every eligible citizen, including those with physical disabilities and limited or no comfort with the English language, can vote privately, securely and independently at the polls, at home, at shopping malls and other public places on or before Election Day;
- ♦ Every election official and poll worker is thoroughly trained and committed to ensuring that every eligible citizen is treated with respect and courtesy, and can vote easily and securely;
- ♦ Every eligible voter receives written and oral information about candidates, measures and the voting process in simple, accurate terms and in languages they can understand;
- ♦ Voters are informed of their rights prior to voting, when they vote and after they vote;
- ♦ Voter registration is available on-line;
- ♦ Voting machines are easy to use and flawlessly capture and report voter intent;
- ♦ Young voters are engaged in the electoral process as voters, poll workers, and interested citizens, with education regarding the voting process beginning at an early age;
- ♦ Any eligible voter can cast a properly-formatted ballot in any precinct anywhere in the state or other appropriate jurisdiction on Election Day;
- ♦ Overseas and military voters can vote conveniently and safely wherever they might be;
- ♦ No eligible citizen is turned away at a polling place on Election Day without being able to vote an actual or provisional ballot;
- ♦ Election Day registration is available to those who do not register prior to the election;
- ♦ Internet and/or telephone voting becomes safe and routine.

HAVA, properly implemented, is an opportunity for instituting further reform in California. It is time to seize the moment — and California will, leveraging HAVA not only to restore confidence in the integrity of the voting process, but also to increase voter participation. "My Vote Counts" must be more than a slogan. It must be a defining phrase that captures the very essence of voting in California.

## OVERVIEW

The California State Plan was developed by the California State Plan Advisory Committee ("Committee"), a diverse, twenty-four member body appointed by Secretary of State Kevin Shelley, in accordance with Section 255(a) of HAVA. Brief biographies of the members of the California State Plan Advisory Committee begin on page 37.

The Committee held public hearings in Monterey Park (Los Angeles County), San Diego, San Francisco, Fresno and Sacramento. The hearings were publicized in advance by mailing notices to nearly 4,000 interested persons and organizations, by publishing notice in the *Los Angeles Times*, *San Diego Union-Tribune*, *San Francisco Chronicle*, *Sacramento Bee*, *Fresno Bee*, and *La Opinion* — in Spanish, by posting notices in seven different languages on the Secretary of State's website, and by telephoning and e-mailing interested persons.

The hearings were transcribed, videotaped, audio-recorded, and documented by minutes and synopses. At one or more hearings interpreters were available in Chinese (Mandarin and Cantonese), Japanese, Korean, Tagalog, Spanish and Vietnamese. At one or more hearings, audio headsets were available for the hearing and/or visually impaired. All public proceedings were signed in American Sign Language. All hearings were held in facilities in compliance with the Americans with Disabilities Act.

More than 250 oral or written comments were received by the Members of the Committee regarding election reform and HAVA implementation at the public hearings or by mail, fax, e-mail or hand delivery. (Members of the public were able to provide input by sending e-mail to [hava@ss.ca.gov](mailto:hava@ss.ca.gov).) The comments received were taken into account by the Members of the Committee.<sup>7</sup> The Members, thereafter, met in Sacramento on May 27, 2003, and discussed the implementation of HAVA in California. At that meeting, and subsequent to that meeting, the Members of the Committee made recommendations to the Secretary of State regarding the content of the State Plan. These recommendations were considered in drafting the Preliminary California State Plan.

On June 17, 2003, the Preliminary State Plan was made available for public inspection at the Secretary of State's office in Sacramento and a notice was published to that effect. Thereafter, it was made available for public inspection at Regional Offices of the Secretary of State located in Fresno, Los Angeles, San Diego and San Francisco. A news release was issued announcing that the Preliminary Plan was available for public inspection and comment until July 17, 2003. Copies were posted in English and Spanish on the Secretary of State's official website ([www.ss.ca.gov](http://www.ss.ca.gov)). Copies of the Preliminary State Plan were sent to interested persons and organizations. Comments regarding the Preliminary State Plan were received by mail, hand delivery, fax, and e-mail.<sup>8</sup> All comments were considered. Revisions of the Preliminary Plan were made in response to the comments. The Secretary of State hereby submits the California State Plan for publication in the *Federal Register* for 45 days.

SECTION 254(a) REQUIRES THE STATE PLAN TO INCLUDE A DESCRIPTION OF EACH OF THIRTEEN ELEMENTS. EACH OF THE THIRTEEN ELEMENTS IS TREATED AS A "SECTION" OF THE CALIFORNIA STATE PLAN, AS SET FORTH IN THE FOLLOWING PAGES



# SECTION ONE: COMPLIANCE WITH REQUIREMENTS OF TITLE III

## SECTION 254(a)(1), PAGE 72<sup>9</sup>

HOW THE STATE WILL USE THE REQUIREMENTS PAYMENT TO MEET THE REQUIREMENTS OF TITLE III<sup>10</sup>, AND, IF APPLICABLE UNDER SECTION 251(a)(2), TO CARRY OUT OTHER ACTIVITIES TO IMPROVE THE ADMINISTRATION OF ELECTIONS.

Title III, commencing with Section 301 (page 96), sets forth “Uniform and Non-Discriminatory Election Technology and Administration Requirements.”

Below is a summary of the requirements of Title III of HAVA and how California will use the requirements payment to comply with that federal law. It should be noted that, pursuant to Section 305 (page 124), the specific choices on the methods of complying with the requirements of Title III are left to the discretion of the State.

### A. VOTING SYSTEMS STANDARDS

#### SECTION 301(a), PAGES 96-102

##### Federal Law

HAVA requires that each voting system used in a federal election on or after January 1, 2006, meet each of the following requirements.

##### Balloting errors

The voting system must permit the voter to verify privately and independently the votes selected before casting a ballot and must permit the voter privately and independently to change or correct a ballot before it is cast, including receiving a replacement ballot.

Note that the requirement that a voting system permit the voter to verify the votes selected before casting a ballot may not be defined in a manner that makes it impossible for a paper ballot voting system to meet the new requirements of HAVA.

##### Voter notice on overvoting and correction

The voting system must:

- ♦ notify the voter of an overvote (casting votes for more candidates than allowed);
- ♦ notify the voter of the effect of overvoting (i.e. the vote for that office will not be counted);
- ♦ provide the voter with the opportunity to correct the ballot, if he or she has overvoted.

##### Paper-based voting systems compliance

Paper-based voting systems, including absentee balloting systems, may meet the above requirements with:

- ♦ voting-system specific voter education programs notifying the voter of the effect of overvoting;
- ♦ instructions on how to correct a ballot before it is cast, including instructions on obtaining a replacement ballot; and
- ♦ system designs that preserve voter confidentiality.

##### Voting system audit requirements (PAGES 98-99)

The voting system must:

- ♦ produce a record with an audit capacity. The paper record produced shall be available as an official record for purposes of a recount;
- ♦ produce a permanent paper record with a manual audit capacity;
- ♦ allow the voter to correct any error before the permanent paper record is produced.

##### Accessibility for individuals with disabilities (PAGE 99)

The voting system must be accessible to voters with disabilities, including voters with visual impairment, in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters.

The above requirement is met by providing at least one DRE voting unit, or other voting system equipped for individuals with disabilities at each polling place.

All voting systems purchased with Title II funding after January 1, 2007, shall comply with these requirements.

##### Alternative language accessibility (PAGE 99)

The voting system must meet all requirements of alternative language access of Section 203 of the Voting Rights Act of 1965 (42 USC 1973aa-1a).

### **Error rates (PAGE 100)**

The voting system must meet FEC guidelines (Section 3.2.1) for voting system error rates — errors attributable only to system errors, and not an act of the voter — in effect at the time of HAVA's enactment (October 29, 2002).

### **Definition of vote (PAGE 100)**

Each state shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State.

### **HAVA COMPLIANCE WITH VOTING SYSTEMS STANDARDS**

In consultation with local elections officials and other interested parties, including an advisory committee constituted for those purposes by the Secretary of State, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, California will, through the regulatory, legislative, voting system certification and decertification processes, or otherwise, comply with HAVA, including the replacement of voting systems that do not comply. In order to help restore the integrity of the voting process, increase the opportunity for all eligible citizens to participate in that process, and to comply with HAVA, the State, under the direction of the Secretary of State, as Chief Elections Officer,<sup>11</sup> will, in conjunction with the consultation referred to above, in part:

- ♦ support, promote and encourage the use of direct recording electronic (DRE/touchscreen) voting systems, at polling places in California, and optical scan systems that are used for tabulating vote-by-mail ballots, that are compatible with alternative voting methods such as ranked ballot and cumulative voting;
- ♦ expeditiously certify new DRE voting systems that are compliant with state and federal laws;
- ♦ through the existing Voting Systems Panel, which makes recommendations to the Secretary on certification and decertification of voting systems, develop voting system standards and system audit requirements as required in HAVA and institute an ongoing process to manage changes to these standards and ensure uniform application of the standards for each voting system;
- ♦ develop and distribute voter education materials as appropriate to meet the requirements of Section 301(a)(1)(B) of HAVA;
- ♦ with the assistance of an advisory committee constituted for such purposes by the Secretary of State, ensure compliance with the accessibility and privacy requirements for individuals with disabilities, including ensuring that at least one DRE/touchscreen voting system is used in each California polling place pursuant to Section 301(a)(3)(B) and, with respect to in-person voting, that the voting system itself be located in a polling place that is accessible to voters with disabilities. Compliance efforts shall include monitoring polling places to determine accessibility and education of elections officials, poll workers, and voters with respect to the rights of all voters, including voters with disabilities. The Secretary of State shall consider, through established processes, decertifying paper-based systems, with respect to in-person voting, that are difficult to operate, which are prone to error with respect to voters with disabilities, or which do not provide equal access to the ballot. The Secretary of State shall consider, in consultation with local elections officials and other interested parties, including an advisory committee constituted for those purposes by the Secretary of State, establishing a deadline for requiring that all in-person voting systems be accessible notwithstanding Section 301(a)(3)(B) (permitting compliance with accessibility requirements with only one DRE voting system at each polling place);
- ♦ continue to ensure that all voting systems provide alternative language accessibility pursuant to the requirements of the Voting Rights Act of 1965. The Secretary of State shall consider, through established processes, decertifying paper-based systems, with respect to in-person voting, that are difficult to operate, which are prone to error with respect to voters with language assistance needs, or which do not provide equal access to the ballot;
- ♦ consider, through established processes, decertifying systems and refusing to certify systems that cannot accommodate alternative voting systems, such as ranked ballots and cumulative voting systems, in a manner in which voters can easily understand;



- ♦ regularly evaluate voting systems to assess error rates, reliability and accuracy factors, accessibility to voters with disabilities, language assistance needs and literacy needs, and ability to accommodate alternative voting systems; work with local elections officials to share information and make improvements;
- ♦ develop, by regulation and/or by statute, a uniform and nondiscriminatory definition of what constitutes a vote and what will be counted for each voting system.

## B. PROVISIONAL VOTING

### SECTION 302, PAGES 102-104

#### Federal Law

Section 302(a) (page 102) requires that “provisional voting” be permitted in federal elections on or after January 1, 2004. Under HAVA, if a voter’s name does not appear on the official list, or the elections official asserts the voter is ineligible, the voter is entitled to cast a provisional ballot as follows:

- ♦ Elections officials at polling place notify voters of the provisional ballot option;
- ♦ Voter executes written affirmation stating that he or she is a registered voter in the jurisdiction and that he or she is eligible to vote;
- ♦ The voted ballot or written affirmation information is promptly transmitted to appropriate state or local elections official for verification;
- ♦ If the information is verified, the ballot shall be counted;
- ♦ At the time the voter casts the ballot, the voter shall be provided with information about the existence of a free access system (e.g. secure, confidential telephonic or Internet-based system) that restricts access to information on individual ballots, so that only the voter who casts the ballot may determine her or his individual ballot status;
- ♦ State or local officials shall establish the free access system.

HAVA also requires (Section 302(c), page 106) that voters who cast ballots after the normal poll closing as a result of a Federal or state order, vote by provisional ballot that is segregated from regular provisional ballots.

## HAVA COMPLIANCE WITH PROVISIONAL BALLOT REQUIREMENTS

In consultation with local elections officials and other interested parties, including an advisory committee constituted for those purposes by the Secretary of State, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, California will, through the regulatory or legislative processes, or otherwise, comply with HAVA, including its provisional ballot requirements. In order to help restore the integrity of the voting process, increase the opportunity for all eligible citizens to participate in that process, and to comply with HAVA, the State, under the direction of the Secretary of State, as Chief Elections Officer,<sup>12</sup> will, in conjunction with the consultation referred to above, in part:

- ♦ develop uniform information and procedures on provisional voting, and voting generally, as required by HAVA, and take steps to ensure that elections officials, poll workers and voters thoroughly understand provisional ballot rights and procedures;
- ♦ ensure that the provisional voting system is designed so that individuals with disabilities can participate in the process as independently as possible;
- ♦ to the extent permitted by law, develop procedures allowing voters to cast a provisional ballot at the polling place upon signing a statement affirming the required information, without providing additional identifying documents;
- ♦ to the extent permitted by law, develop procedures whereby the information obtained to acquire a provisional ballot is sufficient to register the applicant to vote, if otherwise eligible, in future elections should it be determined that the person is not eligible to vote in the precinct for which the provisional ballot is sought or cast;
- ♦ develop procedures whereby a provisional ballot is counted provided that there is compliance with the verification procedures set forth in California Elections Code section 14310, or other applicable section or sections of State law;
- ♦ explore alternative methods of signature comparisons for establishing voter identity where signature change, physical disability or other circumstances prevent the signature from being used appropriately for verification;

- ♦ consider sponsoring legislation amending California Elections Code section 14310, or other appropriate section or sections, to comply with the written affirmation procedures set forth in HAVA section 302(a);
- ♦ consider sponsoring legislation amending California Elections Code section 14310(c)(4), or other appropriate sections, whereby a person's provisional ballot is counted with respect to those candidates and measures for which the person is entitled to vote even if the provisional ballot is cast in the incorrect precinct or using the incorrect ballot type for that person;
- ♦ consider sponsoring legislation changing the name of "provisional ballot" to a less pejorative terminology;
- ♦ create, or oversee the creation of, in conjunction with local elections officials, a secure and confidential free access system for a provisional voter to determine if his or her vote was counted, and, if it was not counted, the reason it was not counted or develop procedures whereby every person who casts a provisional ballot is notified as to the status of that ballot in terms of whether it was counted or not counted, and if not counted, why it was not counted;
- ♦ develop procedures for complying with the requirements that ballots cast after the close of the polls pursuant to a court order be provisional and be segregated;
- ♦ ensure compliance with Section 203 of the Voting Rights Act (42 U.S.C. § 1973aa-1a).

## C. VOTER INFORMATION REQUIREMENTS

### SECTION 302(b), PAGES 104-106

#### Federal law

Section 302(b) (pages 104-105) requires that, with respect to federal elections held on or after January 1, 2004, elections officials post specified voting information at each polling place on Election Day, including:

- ♦ a sample ballot for that election;
- ♦ the election date and polling place hours;
- ♦ voting instructions, including provisional voting instructions;
- ♦ mail-in registrant and first-time voter instructions;
- ♦ general voting rights information, including the right to cast a provisional ballot and instructions on how to contact appropriate officials regarding allegations of violations;
- ♦ general information on legal prohibitions on fraud and misrepresentation.

## HAVA COMPLIANCE WITH VOTING INFORMATION REQUIREMENTS

In consultation with local elections officials and other interested parties, including an advisory committee constituted for those purposes by the Secretary of State, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, California will, through the regulatory or legislative processes, or otherwise, comply with HAVA. In order to help restore the integrity of the voting process, increase the opportunity for all eligible citizens to participate in that process, and to comply with HAVA, the State, under the direction of the Secretary of State, as Chief Elections Officer<sup>13</sup> will, in conjunction with the consultation referred to above, in part, consider developing voting information in appropriate languages for posting at polling places and other appropriate places, and for printing in appropriate community-based and other publications, including specific information, such as the right:

- ♦ to replace a spoiled ballot;
- ♦ not to show identification in those circumstances where identification is not required as a matter of law;
- ♦ to receive assistance from others in specified circumstances;
- ♦ to bring a minor child into the voting booth in specified circumstances;
- ♦ to turn in an absentee ballot into any polling place in the county;
- ♦ to take time off from work without loss of pay in certain circumstances;
- ♦ to vote a provisional ballot in certain circumstances, and to find out whether the vote was counted and, if not, why not;
- ♦ to have sensitive personal information protected from illegal access and use.

The State will also, in part, ensure that the information posted at polling places by local elections officials includes all of the information required to be posted by HAVA and ensure that all information provided at polling places be accessible to the widest possible audience, including persons with disabilities, language assistance needs, and limited literacy skills.

## D. STATEWIDE VOTER REGISTRATION DATABASE REQUIREMENTS

SECTION 303, PAGES 106-111

### Federal law

Section 303 (page 106) requires that the Secretary of State, as Chief Elections Officer, implement, in a uniform and nondiscriminatory manner, by January 1, 2004,<sup>14</sup> a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each such voter. The computerized list shall:

- ♦ be the official voter registration list for federal elections;
- ♦ serve as the single system for storing and managing the official list;
- ♦ contain the name and registration information of every registered voter;
- ♦ contain a unique identifier (DL number, partial SS number, or assigned number) for each voter;
- ♦ be coordinated with other state databases (Corrections, Health Services, DMV, other state social service agencies and Social Security);
- ♦ provide immediate, electronic access by any elections official in the state;
- ♦ allow for electronically entering data by any local elections official on an expedited basis;
- ♦ be supported by the State.

Maintenance of the official list shall be performed on a regular basis as follows:

- ♦ voters names shall be removed in accordance with NVRA (42 U.S.C. § 1973gg, Section 8, (a)(4), (c)(2), (d) and (e);
- ♦ ineligible voters shall be removed in accordance with NVRA for felony status (42 U.S.C. § 1973gg, 6(a)(3)(B)); for death (6(a)(4)(A)); or in accordance with state law;
- ♦ each registered voter's name shall appear on the list;
- ♦ only ineligible voters or voters not registered shall be removed from the list;
- ♦ duplicate names shall be removed from the list;
- ♦ other reasonable efforts to remove ineligible voters, consistent with the NVRA (42 U.S.C. § 1973gg, et. seq.) that ensure eligible voters are not removed in error, including removing registrants who have not responded to a notice and who have not voted in two consecutive general elections for federal office shall be removed from the official list of eligible voters, except that no registrant shall be removed solely by reason of failure to vote.

## HAVA COMPLIANCE WITH STATEWIDE DATABASE REQUIREMENTS

In consultation with local elections officials and other interested parties, including an advisory committee constituted for those purposes by the Secretary of State, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, California will, through the regulatory or legislative processes, or otherwise, comply with HAVA. In order to help restore the integrity of the voting process, increase the opportunity for all eligible citizens to participate in that process, and to comply with HAVA, the State, under the direction of the Secretary of State, as Chief Elections Officer,<sup>15</sup> will, in conjunction with the consultation referred to above, in part, as soon as is reasonably possible, either modify California's current statewide database (Calvoter) so that it complies with HAVA or establish a new statewide database that complies with HAVA, but in either case, shall:

- ♦ develop, operate, and implement a process to continuously support and improve a secure statewide voter registration database that is a single, uniform, centralized, interactive system that is defined, maintained, and administered at the state level;
- ♦ develop a database system that will interface with the State Department of Corrections to coordinate records on felony status of voters; with the State Department of Health Services to coordinate records on the death of voters; with the State Department of Motor Vehicles to verify driver's license, California identification card and social security number information; and, when practical, with other appropriate databases such as those involving the disability, public assistance, student and other communities;
- ♦ develop a database system that will provide local elections officials with immediate access to the voter registration information;
- ♦ develop to the extent possible a database system designed so that state employees and others with visual disabilities can use it with as much ease and accuracy as possible and which is tested by individuals with visual disabilities as early as possible in the development process;

- ♦ develop a database system that will serve as the official voter registration list for federal elections;
- ♦ develop a database system that provides for the removal of individuals who are clearly ineligible to vote, in accordance with all state and federal laws, while ensuring that eligible voters are not erroneously removed from the registration list;
- ♦ develop guidelines and procedures to ensure that the matching of information about individuals in the databases used to verify voter information is conducted in a uniform manner, as carefully and as accurately as possible, particularly in cases where it may initially appear that a voter appears to be ineligible;
- ♦ develop guidelines and procedures addressing all federal and state requirements regarding the notification of voters whom the State is considering removing from the list of eligible voters;
- ♦ develop a program for training the personnel responsible for the maintenance of the statewide voter registration database which incorporates the following procedures and emphasizes: (1) the need for accuracy in the verification of voter information before voters are removed as eligible voters from the registration list, and (2) the importance of complying with federal and state notification requirements;
- ♦ consider sponsoring legislation for a comprehensive mechanism to notify an individual with respect to changes in status or failure in registration, or proposed purging of the individual from the database as an eligible voter and affording the individual a reasonable opportunity to present clarifying or correcting information;
- ♦ provide ongoing technical assistance to local elections officials regarding the statewide database;
- ♦ ensure that the database and the information contained therein are not subject to improper use;
- ♦ institute uniform safeguards for the protection of the confidentiality and privacy of information obtained about voters in the database system and those databases with which the voter registration database interfaces;
- ♦ ensure compliance with Section 203 of the Voting Rights Act (42 U.S.C. § 1973aa-1a).

## E. REQUIREMENTS FOR VERIFICATION OF VOTER REGISTRATION INFORMATION

### SECTION 303, PAGES 111-117

#### Federal Law

Section 303(a)(5) (page 111), beginning January 1, 2004, or January 1, 2006,<sup>16</sup> mandates specific requirements with respect to an application for voter registration for a federal election.

Such application may not be accepted or processed unless it includes the driver's license number of an applicant who has been issued a current, valid driver's license; or, if a valid driver's license has not been issued the last four digits of an applicant's social security number.

However, if an applicant has not been issued a current, valid driver's license or a social security number, then the State shall issue a unique identifying number.

To the extent the State has a computerized list, this unique identifying number shall be the number assigned to the applicant for purposes of the computerized list.

The State shall determine whether the information provided by the applicant — driver's license number or partial social security number (the last four digits) — is sufficient to meet the requirements of HAVA.

The Secretary of State shall enter into a cooperative agreement with the Department of Motor Vehicles, and the Department of Motor Vehicles shall enter into an agreement with the Commissioner of Social Security, to verify the accuracy of the information provided by the voter registration applicant, specifically:

- ♦ the applicant's name — first name and forename or surname;
- ♦ the applicant's date of birth;
- ♦ the applicant's social security number;
- ♦ whether such records show the applicant is deceased.

Nothing shall be construed to require provision of applicable information under exceptional circumstances, e.g. personal safety or interference with an investigation.

## HAVA COMPLIANCE WITH REQUIREMENTS FOR VERIFICATION OF VOTER REGISTRATION INFORMATION

In consultation with local elections officials and other interested parties, including an advisory committee constituted for those purposes by the Secretary of State, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, California will, through the regulatory or legislative processes, or otherwise, comply with HAVA. In order to help restore the integrity of the voting process, increase the opportunity for all eligible citizens to participate in that process, and to comply with HAVA, the State, under the direction of the Secretary of State, as Chief Elections Officer,<sup>17</sup> will, in conjunction with the consultation referred to above, ensure that the State complies with HAVA's requirements with respect to the requirements for verification of voter registration information with respect to federal elections. In complying with these requirements, the Secretary of State will, in part:

- ♦ deem an applicant's state identification card number issued by the California Department of Motor Vehicles to meet the requirements of a driver's license number;
- ♦ to the extent permitted by law, establish a procedure for and rules requiring local elections officials to provide any person whose voter registration application is not accepted with written notice and an opportunity to correct errors or provide missing information;
- ♦ clarify, in legislation or otherwise, to local elections officials and voters how to appropriately complete the voter registration forms.

## F. SPECIAL REQUIREMENTS FOR CERTAIN VOTERS WHO REGISTER BY MAIL

SECTION 303, PAGES 117-124

### Federal law

Beginning January 1, 2004 (page 124), the State shall, in a uniform and nondiscriminatory manner, require proof of residence from a registered voter for purposes of casting a ballot in a federal election, if the voter registered to vote in a jurisdiction by mail on or after January 1, 2003, and has not previously voted in an election for federal office in the State, or has not voted in an election for federal office in the jurisdiction and the jurisdiction is located in a State that does not have a HAVA-compliant statewide voter registration computerized list.

If the voter meets these conditions, and he or she votes in person at a polling location, the voter shall, in order to vote, present to the appropriate elections official a current and valid photo identification or a copy of one of the following that shows the name and address of the voter:

- ♦ a current utility bill;
- ♦ a bank statement;
- ♦ a government check;
- ♦ a government paycheck;
- ♦ a government document.

If the voter meets these conditions and he or she votes by mail — absentee ballot — the voter shall, in order to vote, submit with his or her ballot to the appropriate elections official a copy of a copy of one of the following that shows the name and address of the voter:

- ♦ a current utility bill;
- ♦ a bank statement;
- ♦ a government check;
- ♦ a government paycheck;
- ♦ a government document.

Any voter subject to these requirements who votes in person and who does not provide proof of residence as required shall be provided a provisional ballot.

Any voter subject to these requirements who votes by mail — absentee ballot — and who does not provide proof of residence as required shall have their ballot treated as a provisional ballot.

## EXCEPTIONS

SECTION 303(b)(3), PAGE 119

The requirements for first-time voters to provide proof of residence shall not apply when any of the following apply:

1. The voter registers under Section 6 of the NVRA (42 U.S.C. § 1973gg-4) and submits as part of the voter registration a copy of a current and valid photo identification or a copy of one of the following showing the name and address of the voter:
  - ♦ a current utility bill;
  - ♦ a bank statement;
  - ♦ a government check;
  - ♦ a government paycheck;
  - ♦ a government document.

2. The voter registers under Section 6 of the NVRA (42 U.S.C. § 1973gg-4) and submits as part of the registration (subject to state verification of the information, including the applicant's name and birth date) a driver's license number, or at least the last four digits of their social security number.
3. The voter is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff-1 et seq.).
4. The voter is entitled to vote other than in person by Section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee-1).
5. The voter is entitled under federal law to vote other than in person.

### **HAVA COMPLIANCE WITH SPECIAL REQUIREMENTS FOR CERTAIN VOTERS WHO REGISTER BY MAIL**

In consultation with local elections officials and other interested parties, including an advisory committee constituted for those purposes by the Secretary of State, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, California will, through the regulatory or legislative processes, or otherwise, comply with HAVA. In order to help restore the integrity of the voting process, increase the opportunity for all eligible citizens to participate in that process, and to comply with HAVA, the State, under the direction of the Secretary of State, as Chief Elections Officer,<sup>18</sup> will, in conjunction with the consultation referred to above, comply with HAVA's requirements with respect to special requirements for certain voters who register by mail. In implementing these provisions, California will, in part:

- ♦ ensure that elections officials, poll workers and voters understand clearly which voters are subject to the identification requirements; understand the procedures for soliciting, reviewing and processing identification, and advise individuals of their right to cast a provisional ballot when appropriate;

- ♦ apply the identification requirements only to those who meet the specific criteria set forth in Section 303(b)(1), namely those who register by mail on or after January 1, 2003, and who have not previously voted in an election for federal office in the jurisdiction;<sup>19</sup>
- ♦ define "register by mail" for purposes of Section 303 of HAVA to mean a voter registration card received by an elections official with a postmark indicating that it has been mailed by the registrant to the elections official;
- ♦ as soon as possible, whether or not the Commission has promulgated voluntary guidelines, clarify for voters, local elections official, and poll workers, in a uniform and nondiscriminatory way, which forms of identification are acceptable to be used as valid identification as permitted under Section 303(b)(2)(A), construing such provisions of law broadly to permit the use of the identification to satisfy the requirements of HAVA, such clarification being incorporated herein by reference as if set forth in detail;
- ♦ monitor the application of the identification provisions, including utilization of a hotline for the reporting of alleged illegal application of identification requirements;
- ♦ ensure compliance with Section 203 of the Voting Rights Act (42 U.S.C. § 1973aa-1a).

### **G. MAIL-IN REGISTRATION FORM REQUIREMENTS**

#### **SECTION 303(b)(4), PAGES 121-122**

##### **Federal law**

The voter registration form developed under Section 6 of the NVRA (42 U.S.C. § 1973gg-4) must include:

- ♦ the questions are you a citizen of the United States of America and will you be 18 years of age on or before election day;
- ♦ the statement: "If you checked 'no' in response to either of these questions, do not complete this form;"
- ♦ a statement informing the applicant that if the form is submitted by mail and the voter is registering for the first time, that additional information (a copy of documents for proof of residence; or a driver's license number or partial social security number) must be provided to avoid additional proof of residence requirements at the time of voting.

If an applicant fails to answer the question: “Are you a citizen of the United States of America?” the registrar shall notify the applicant of the failure to complete the form and provide an opportunity to the applicant to complete the form in a timely manner.

### **HAVA COMPLIANCE WITH MAIL-IN REGISTRATION FORM REQUIREMENTS**

In consultation with local elections officials and other interested parties, including an advisory committee constituted for those purposes by the Secretary of State, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, California will, through the regulatory or legislative processes, or otherwise, comply with HAVA. In order to help restore the integrity of the voting process, increase the opportunity for all eligible citizens to participate in that process, and to comply with HAVA, the State, under the direction of the Secretary of State, as Chief Elections Officer,<sup>20</sup> will, in conjunction with the consultation referred to above, develop uniform and nondiscriminatory procedures to meet the requirements of Section 303(b)(4) of HAVA.

### **H. USE OF REQUIREMENTS PAYMENT FOR OTHER THAN COMPLYING WITH TITLE III**

Section 251(b) (pages 65-66) permits the use of requirements payments only for complying with Title III, except that a State may use a requirements payment to carry out other activities to improve the administration of elections, if the state certifies that it has implemented the requirements of Title III or the amount expended with respect to such other activities does not exceed an amount equal to the minimum payment amount applicable to the State under Section 252(c), page 68 (one-half of one percent of the total amount appropriated for requirements payments for the year).

### **HAVA COMPLIANCE WITH USE OF REQUIREMENTS PAYMENT FOR OTHER THAN COMPLYING WITH TITLE III**

In consultation with local elections officials and other interested parties, including an advisory committee constituted for those purposes by the Secretary of State, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, California will, through the regulatory or legislative processes, or otherwise, comply with HAVA. In order to help restore the integrity of the voting process, increase the opportunity for all eligible citizens to participate in that process, and to comply with HAVA, the State, under the direction of the Secretary of State, as Chief Elections Officer,<sup>21</sup> will, in conjunction with the consultation referred to above, determine how any funds available pursuant to Section 251(b) (pages 65-66) should be spent in order to improve the administration of elections for federal office in California.



## SECTION TWO: DISTRIBUTION OF REQUIREMENTS PAYMENT

### SECTION 254(a)(2), PAGES 72-73

HOW THE STATE WILL DISTRIBUTE AND MONITOR THE DISTRIBUTION OF THE REQUIREMENTS PAYMENT TO UNITS OF LOCAL GOVERNMENT OR OTHER ENTITIES IN THE STATE FOR CARRYING OUT THE ACTIVITIES DESCRIBED IN ELEMENT (SECTION) NUMBER ONE, INCLUDING A DESCRIPTION OF: THE CRITERIA TO BE USED TO DETERMINE THE ELIGIBILITY OF SUCH UNITS OR ENTITIES FOR RECEIVING THE PAYMENT; AND THE METHODS TO BE USED BY THE STATE TO MONITOR THE PERFORMANCE OF THE UNITS OR ENTITIES TO WHOM THE PAYMENT IS DISTRIBUTED, CONSISTENT WITH THE PERFORMANCE GOALS AND MEASURES ADOPTED UNDER ELEMENT (SECTION) NUMBER EIGHT.

The requirements payment available under HAVA shall be used for the purposes described in Section 1 above, including as provided in Section 251(b)(2), or as otherwise authorized by HAVA.

The Secretary of State, as Chief Elections Officer, will, in consultation with local elections officials and other interested parties, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, establish a procedure for distributing and monitoring payments to local governments and other entities. To assist in this regard, the Secretary of State will appoint an Advisory Committee, composed of local elections officials and other individuals and representatives of organizations, to advise and make recommendations regarding the distribution of funds. After considering the advice and recommendations of the Advisory Committee, the Secretary of State shall:

- ♦ establish the procedure, including an application forms and process, for receiving funds;
- ♦ establish criteria for the distribution of funds, including identification of the types of individuals and entities eligible to receive funds;
- ♦ establish specific performance goals and measures to monitor the use of those funds, requiring periodic reports and accounting to the Secretary of State to ensure the funds are being spent in accordance with Title III and the application for funds, and to ensure that programs are meeting the performance goals and measures adopted by the Secretary of State;
- ♦ by general press release, by posting on the Internet, by communication to interested parties, and other appropriate methods, make the application for funds, the performance goals and measures, and other information regarding the procedure for the distribution of funds, publicly available.



# SECTION THREE: VOTER EDUCATION, ELECTION OFFICIAL TRAINING, AND POLL WORKER TRAINING

## SECTION 254(a)(3), PAGE 73

HOW THE STATE WILL PROVIDE FOR PROGRAMS FOR VOTER EDUCATION, ELECTIONS OFFICIAL EDUCATION AND TRAINING, AND POLL WORKER TRAINING WHICH WILL ASSIST THE STATE IN MEETING THE REQUIREMENTS OF TITLE III.

The Secretary of State, as Chief Elections Officer, in consultation with local elections officials and other interested parties, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, shall:

1. establish an outreach and education program in the Office of the Secretary of State to educate local elections officials and voters, and to do the following:
  - ♦ to assist in meeting the goals and requirements of Title III;
  - ♦ to serve as a “clearinghouse” for the coordination of voter education;
  - ♦ to work with and to encourage elections officials to work with community-based, employee-based, campus-based and similar organizations to educate elections officials and voters;
  - ♦ to produce and place public service announcements relative to poll worker recruitment and voter education, including announcements targeted to and accessible to individuals with disabilities;
  - ♦ to produce and distribute, and arrange for the distribution of, materials appropriate for older voters, voters with disabilities, language assistance needs, and low literacy, regarding the mechanics of participating in the voting process;
  - ♦ to design, post and distribute websites, and website templates, regarding the voting process, taking steps to ensure that they are accessible to individuals with disabilities;
  - ♦ to target younger voters and those not yet old enough to vote regarding the importance of and the mechanics of participating in the voting process;
  - ♦ to educate all eligible citizens, including those no longer in prison or on parole for the conviction of a felony, as to the procedures relative to voting;
  - ♦ to work with federal, state and local governmental agencies, including the California Department of Motor Vehicles, to streamline the procedures to facilitate voter registration and voter participation;
  - ♦ to develop procedures for informing individuals whose attempted efforts to register to vote or to vote are defective, and to provide for the correction of such deficiencies;
  - ♦ to solicit private funding for outreach and education purposes;
  - ♦ to explore ways to minimize the changing of polling place locations that confuse voters;
  - ♦ to explore proposals that may facilitate the opportunity to participate in the voting process, including Election Day registration, weekend voting, and Election Day Holiday voting;
  - ♦ to consider promoting early voting and neighborhood voting centers;
  - ♦ to take all other appropriate action to educate elections officials and voters regarding the voting process;

2. through the process for distribution of funds, provide funds to county elections officials and other entities, including community-based, employee-based, campus-based, and similar organizations, to assist in voter education, elections official education and training, and poll worker training;
3. consider establishing, in conjunction with local elections officials, an “Election Academy” or similar institution to provide training, education and certification to elections officials and poll workers;
4. consider establishing, in conjunction with local elections officials, an on-line, interactive training seminar to train, educate and certify elections officials and poll workers while ensuring that such seminar is accessible to the widest possible audience, including bilingual poll workers and poll workers with disabilities;
5. consider producing and distributing, in conjunction with local elections officials and community-based, employee-based, campus-based, and similar organizations, in appropriate languages, printed materials, websites, website templates, and video on DVD or other appropriate media, providing training to elections officials and poll workers and educating voters on how to participate in the elections process, including, but not limited to, voter guides targeted to older voters and voters with disabilities, including low literacy, and minority language voters;
6. consider enhancing the existing toll-free telephone number and Secretary of State website to provide additional information to citizens on how to participate in the elections process and ensure that there are sufficient staff and resources to make the toll-free number and the website easily accessible to persons with disabilities and persons with language assistance needs;
7. work with local elections officials to establish community-based, employee-based, campus-based or similar programs to train and educate poll workers concerning voting equipment and other election procedures that will be included in funding distributed for outreach and education purposes. The criteria to qualify for these grants shall include demonstrated expertise in voter training and education, and poll worker recruitment activities;
8. establish procedures and criteria for individuals and organizations to apply for grants to assist in training and education activities, including identification and recruitment of minority language poll workers and poll workers with disabilities. The criteria to qualify for these grants must include demonstrated expertise and experience in voter training and education, and poll worker recruitment activities. The grant program must also include evaluation measures to assess the effectiveness of funded programs;
9. develop for posting in polling places, on the Internet, and elsewhere, materials in appropriate languages containing useful information regarding the election process and how to participate in it. The Secretary of State shall ensure that such materials are accessible to the widest possible audience, including persons with disabilities, language assistance needs, and limited literacy skills;
10. ensure that any training provided to poll workers cover at least the following topics:
  - ♦ the proper operation and maintenance of voting systems and technology;
  - ♦ the rights of voters to cast provisional ballots, the proper processing and counting of those ballots, and how provisional voters can determine whether their votes were counted and, if not, why not;
  - ♦ the non-discriminatory application of HAVA's identification requirements for certain voters who register by mail;

- ♦ identifying and assisting voters with disabilities, including psychiatric disabilities, in order that such voters can participate fully in the voting process independently and privately;
  - ♦ the rights of minority language voters in jurisdictions covered under Section 203 of the Voting Rights Act of 1965 to receive language assistance at the polling place;
11. encourage voter education efforts conducted in connection with the foregoing activities to cover at least the following topics:
- ♦ information on how to register to vote;
  - ♦ information on how voters can determine the location of their polling places and hours of voting;
  - ♦ information on alternative voting on Election Day, such as absentee ballots and early voting;
  - ♦ the proper use of voting systems and technology;
  - ♦ the rights of voters to cast provisional ballots and how provisional voters can determine whether their votes were counted and, if not, why not;
  - ♦ the rights of minority language voters in jurisdictions covered under Section 203 of the Voting Rights Act of 1965 to receive language assistance at the polling place;
  - ♦ the availability of the complaint procedure and toll-free numbers described in this State Plan;
12. form an advisory committee with a diverse membership, including individuals with disabilities, to assess the Secretary of State's existing outreach programs, including but not limited to: the College Guide, Voter Registration Week's Education Day, Vote America, the C.I.V.I.C.S. program, the Shake the State website, and Student/Parents Mock Elections. The advisory committee shall determine the effectiveness of these programs in encouraging young people to register to vote and participate in elections. The advisory committee should also suggest modifications to existing programs and articulate any need for new programs. The Secretary of State shall direct sufficient resources towards strengthening existing effective programs and establishing ones that will be the most effective in addressing the low participation rates amongst people ages 18-24.

## SECTION FOUR: VOTING SYSTEMS GUIDELINES AND PROCESSES

### SECTION 254(a)(4), PAGE 73

**HOW THE STATE WILL ADOPT VOTING SYSTEM GUIDELINES AND PROCESSES WHICH ARE CONSISTENT WITH THE REQUIREMENTS OF SECTION 301.**

The Secretary of State, under existing state law, certifies voting systems and equipment, and the procedures for their use, through a Voting Systems Panel. The Secretary of State also decertifies voting systems and equipment, and the procedures for their use. No voting system may be used for any election without being certified.

The Secretary of State, through existing processes, after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, will certify and decertify voting systems, and the procedures for their use, to ensure that all voting systems and the procedures for their use comply with the requirements of Section 301 and other provisions of HAVA.

## SECTION FIVE: HAVA FUND MANAGEMENT

### SECTION 254(a)(5), PAGE 73

**HOW THE STATE WILL ESTABLISH A FUND DESCRIBED IN SECTION (b) FOR PURPOSES OF ADMINISTERING THE STATE'S ACTIVITIES UNDER THIS PART, INCLUDING INFORMATION ON FUND MANAGEMENT.**

The Secretary of State has administratively established three separate Election Funds within its statutorily-established Federal Trust Fund, including the procedures for its management. Each subaccount within the Federal Trust Fund will serve as the repository for Title I-Section 101, Title I-Section 102 and Title II funds.

The Secretary of State's fiscal, accounting, and budgeting offices will have overall responsibility, under the direction of the Secretary of State, for the administration of this fund.

The administration of the fund will meet all requirements of federal and state law for fiscal management.

## SECTION SIX: BUDGET

### SECTION 254(a)(6), PAGES 73-74

THE STATE'S PROPOSED BUDGET FOR ACTIVITIES UNDER THIS PART (PART 1 OF SUBTITLE D OF TITLE II), BASED ON THE STATE'S BEST ESTIMATES OF THE COSTS OF SUCH ACTIVITIES AND THE AMOUNT OF FUNDS TO BE MADE AVAILABLE, INCLUDING SPECIFIC INFORMATION ON:

- ◆ THE COSTS OF THE ACTIVITIES REQUIRED TO BE CARRIED OUT TO MEET THE REQUIREMENTS OF TITLE III;
- ◆ THE PORTION OF THE REQUIREMENTS PAYMENT WHICH WILL BE USED TO CARRY OUT ACTIVITIES TO MEET SUCH REQUIREMENTS; AND
- ◆ THE PORTION OF THE REQUIREMENTS PAYMENT WHICH WILL BE USED TO CARRY OUT OTHER ACTIVITIES.

Budgetary issues cannot be resolved until the amount of funds available is determined, the voluntary guidelines (Subtitle B of Title III, page 125 et seq.) promulgated by the Commission can be considered, and the costs of actual implementation are ascertained. When the amount of funds is determined, the guidelines are promulgated, and the implementation costs can be ascertained, the detailed budget will be configured by the Secretary of State, in conjunction with local elections, other public officials and interested individuals and organizations. Certain dynamics and parameters for the budget, however, are set forth below.

#### PROPOSED BUDGET

The Secretary of State, as the Chief Elections Officer of California as described in Section 253(e), will adopt policies and procedures to ensure that all funds received, including interest earned on those funds, with the exception of funds identified in Sections 251(b)(2)(A) and (B) from Title II allocations, will be used to accomplish the requirements of Title III.

The Secretary of State will identify its "maintenance of effort" level for each of the requirements in Title III and will not use HAVA funds to supplant activities already funded.

The State has authorized \$200 million in general obligation bonds to finance the modernizing of voting equipment. The counties can use these funds for the purchase and installation of accessible voting equipment. These funds satisfy the matching fund requirement of Section 253(b)(5).

No funds received pursuant to Title II will be used for purposes of litigation or payment of judgment.

The Secretary of State, as the Chief Elections Officer of California as defined in Section 253(e), will administer the Election Fund described in Section 254(b) of the Act.

#### SPECIFIC BUDGET COMPONENTS RELATIVE TO TITLE III

The Secretary of State, in administering the Election Fund, will provide funding for the following specific requirements of Title III:

#### VOTING SYSTEMS STANDARDS

The Secretary of State will allocate funds to meet the requirements of Section 301. This may include allocation of funds to local administrators, according to allocation criteria developed by the Secretary of State.

The level of funds required to meet these requirements depends on several variables that must be determined by research and analysis.

As one example, there is significant potential variability in cost of voting systems. This variability depends on the technology selected (DRE versus optical scan, precinct-based versus centralized systems, etc.) and this selection is at the option of local election officials. In addition, the cost depends on the functional requirements of those systems, and local decisions as to whether to purchase one DRE per polling place or to convert all voting equipment to DREs. As a third example, the number of polling places required to be equipped with new voting equipment won't be known with precision until further communication with local elections officials.

If federal standards or state standards are adopted that require retrofitting of existing equipment, funds may also be necessary for this purpose.

The Secretary of State shall establish a procedure to determine which local election jurisdictions require or request funds to meet the requirement of Section 301(a)(3) for at least one accessible voting system in each polling place. There are approximately 25,000 precincts in the State of California.

The Secretary of State shall ensure that all voting equipment meets the provisions of Section 301, including, but not necessarily limited to: (1) permitting voters to verify and correct their ballots prior to casting the ballot; (2) providing notice of the fact and effect of overvotes and permitting voters an opportunity to correct an overvote before the ballot is cast; (3) producing a permanent paper record with a manual audit capacity; (4) providing a uniform definition of a vote cast on any voting systems; (5) ensuring accessibility to persons with disabilities; (6) ensuring accessibility for language minorities as required by the Voting Rights Act of 1965, as amended; and (7) meeting the “error rate” guidelines adopted by the Federal Election Commission.

Preliminarily, the cost of this component is estimated to be between \$42.6 million and \$70 million but actual costs may be less than or more than these parameters. In any case, this component shall be the priority in allocating funds.

## PROVISIONAL VOTING

California law specifies procedures for provisional voting that generally comply with the requirements of Section 302. However, funds will be disbursed by the Secretary of State from the Election Fund to ensure that all notices required by HAVA are developed and included at each polling place. In addition, the Secretary of State will, in cooperation with local elections officials, define a “free access” system (or systems) to permit voters to determine if their provisional ballots were counted and if not, why not. Alternatively, the state may take a proactive approach and advise provisional voters of the status of their ballots and, if they were not counted, why not. The funds necessary for this “free access” system or a proactive program will depend on the design of the system (Internet, telephone, etc.), who operates and manages the system (one state system, or 58 local systems), and the volume of inquiries made by voters for the required information or the volume of notices provided to provisional voters.

Preliminarily, the cost of this component is estimated to be between \$1 million and \$3 million but actual costs may be less or more than these parameters, with continuing ongoing costs.

## VOTING INFORMATION

HAVA requires that certain information be provided to voters at the polling place. This information shall include a sample ballot, the date and hours of voting, how to vote, how to vote a provisional ballot, procedures for first-time registrants required to provide identification in order to vote, a listing of the rights of voters, and general information on other laws and protections for voters.

The Secretary of State will ensure that the necessary materials are developed, distributed, and provided at all polling places.

Preliminarily, the cost of this component is estimated to be between \$100,000 and \$300,000 but actual costs may be less or more than these parameters.

## STATEWIDE DATABASE

The Secretary of State shall develop a single, uniform, official, centralized, and interactive database of registered voters that is defined, maintained, and administered at the state level. The database shall be the official list of voters for federal elections.

The development of this system will likely require, to be consistent with state law, the initiation of a feasibility study and analysis to determine the functional requirements of the statewide database. This analysis will determine the amount of funds to be allocated to this requirement.

This analysis will include a determination of the costs and issues related to providing the “immediate electronic access” to elections officials required by Section 303(a)(1)(A)(v).

The analysis will also provide information on potential costs for other state agencies to meet the requirement of HAVA. This will include, but not be limited to: (1) establishing a connection with the Department of Motor Vehicles to facilitate the verification of driver’s license number and social security number; (2) establishing a connection with the Department of Corrections to determine felony status; and (3) establishing a connection with the Department of Health to obtain information regarding persons who have deceased.

In addition, once the system is defined, the Secretary of State will determine the ongoing maintenance, support, security requirements, and the costs associated with these requirements, to comply with appropriate sections of HAVA, including Sections 303(a)(1)(A), 303(a)(1)(A)(vii), and 303(a)(3).

Preliminarily, the cost of the statewide database is estimated to be between \$8 million and \$40 million but actual costs may be less or more than these parameters, with substantial ongoing costs.

## **REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL**

The Secretary of State will develop procedures for the uniform implementation of the requirements of Section 303(b).

Preliminarily, the cost of this component is estimated to be between \$100,000 and \$300,000 but actual costs may be less or more than these parameters.

## **VOTER EDUCATION**

Section 254(a) requires that the State Plan include a description of how Title II funds will be used to educate voters to assist in meeting the requirements of Title III. The changes and new procedures required by HAVA represent the most significant change in voting in a lifetime, and communicating these changes to voters will be critical to the success of the reforms in the election process.

The Secretary of State will allocate substantial funds to the education of voters concerning voter registration, voting, new voting equipment, voter rights, and other appropriate subjects.

These funds will provide for educational efforts in the minority language and disability communities. The Secretary of State will make a special effort to inform and educate young voters as they begin their careers as voters.

In addition to funds expended by the Secretary of State, funds may be allocated to elections officials, individuals, organizations, and others for educational purposes. Funding allocation will be in accordance with criteria established by the Secretary of State.

Outreach methods may include: printed materials, radio and television announcements, mailings, newsletters, door-to-door canvassing, organizing community groups and utilizing their networks to extend into the community, or other means to effectively reach the target audience.

Preliminarily, the cost of this component is estimated to be between \$15 million and \$45 million but actual costs may be less or more than these parameters.

## **ELECTIONS OFFICIAL EDUCATION**

Section 254(a) requires that the State Plan include a description of how Title II funds will be used to educate elections officials. Elections officials are the administrators of the HAVA reforms and their expertise and ongoing education are critical to successful elections.

The Secretary of State will develop a plan for an Election Academy to train prospective elections officials and to provide ongoing training of current officials. The funding required for this Election Academy will depend on the curriculum and program design.

Preliminarily, the cost of this component is estimated to be between \$15 million and \$45 million but actual costs may be less or more than these parameters, with continued ongoing costs.

## **POLL WORKER EDUCATION**

Section 254(a) requires that the State Plan include a description of how Title II funds will be used to educate poll workers. Poll workers are on the front line of elections.

The Secretary of State will expend and allocate funds to assist local elections officials in programs to train poll workers. These programs will include, among other topics, instruction on the proper operation of voting equipment, applicable federal and state laws, the specific needs of minority language and disabled voters, voting provisionally in accordance with the HAVA, procedures for voters who register for the first time by mail, and the rights of voters.

Preliminarily, the cost of this component is estimated to be between \$15 million and \$45 million but actual costs may be less or more than these parameters, with continued ongoing costs.

## **THE PORTION OF THE REQUIREMENTS PAYMENT THAT WILL BE USED TO CARRY OUT OTHER ACTIVITIES**

### **Complaint Procedure**

#### **TITLE IV, SECTION 402, PAGES 126-128**

The Secretary of State has established a complaint procedure that meets the requirements of Section 402. The funds necessary for administering this procedure will depend on the type and the number of complaints received and processed. Funding for administering the procedure is likely to come from the requirements payment.

Preliminarily, the cost of this component is estimated to be between \$100,000 and \$300,000 but actual costs may be less or more than these parameters, with continued ongoing costs.



## Voting Rights Of Military And Overseas Citizens

### TITLE VII, SECTION 702, PAGES 145-146

HAVA amends Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1) to add a requirement that each State designate a single office which shall be responsible for providing information regarding voter registration procedures and absentee ballot procedures to be used by absent uniformed services voters and overseas voters with respect to Federal elections. Reports are required after regularly-scheduled general elections for Federal office

Preliminarily, the cost of this component is estimated to be between \$100,000 and \$300,000 but actual costs may be less than or more than these parameters.

## SUMMARY OF COSTS AND PORTIONS USED TO CARRY OUT ACTIVITIES

Based on an estimated requirements payment for California of \$97.1 million for FY 2003,<sup>22</sup> the best estimate of the distribution is shown on the chart below.\*

HAVA MANDATE	COST ESTIMATE	PORTION OF PAYMENT
Voting System Standards – Title III, Section 301(a)	\$42.6 million – \$70 million	43.87%
Provisional Voting – Title III, Section 302(a)	\$1 million – \$3 million	1.03%
Voter Information Posting – Title III, Section 302(b)	\$100,000 – \$300,000	.1%
Statewide Database – Title III, Section 303(a)	\$8 million – \$40 million	8.24%
Verification of Voter Registration Information – Title III, Section 303(a)(5)	\$100,000 – \$300,000	.1%
Requirements for Certain Voters Who Register by Mail – Title III, Section 303(b)	\$100,000 – \$300,000	.1%
Mail-In Registration Form Requirements – Title III, Section 303(b)(4)	\$0	0%
Voter Education – Title III	\$15 million – \$45 million	15.45%
Elections Official Education – Title III	\$15 million – \$45 million	15.45%
Poll Worker Education – Title III	\$15 million – \$45 million	15.45%
Complaint Procedure (Other Activities) – Title IV, Section 402	\$100,000 – \$300,000	.1%
Voting Rights of Military and Overseas Citizens (Other Activities) – Title VII, Section 702	\$100,000 – \$300,000	.1%
<b>TOTAL</b>	<b>\$97,100,000 – \$249,500,000</b>	<b>100% OF \$97,100,000</b>

\*Note that continued ongoing costs are not included and that the costs and portions indicated are subject to change based on the variables indicated earlier. Such anticipated changes, unknown at this time, are deemed to be included in this Plan as if set forth in detail. Note, also, that the “Portion of Payment” indicated above is based on the minimum “Cost Estimate” which may not be the true cost as ultimately determined.

## SECTION SEVEN: MAINTENANCE OF EFFORT

### SECTION 254(a)(7), PAGE 74

HOW THE STATE, IN USING THE REQUIREMENTS PAYMENT, WILL MAINTAIN THE EXPENDITURES OF THE STATE FOR ACTIVITIES FUNDED BY THE PAYMENT AT A LEVEL THAT IS NOT LESS THAN THE LEVEL OF SUCH EXPENDITURES MAINTAINED BY THE STATE FOR THE FISCAL YEAR ENDING PRIOR TO NOVEMBER 2000.

The Secretary of State, through the state's budgetary processes and the distributions of the requirements payment, will ensure that the expenditures of the state for activities funded by the payment will be maintained at a level that is not less than the level of such expenditures maintained by the state for the 1999-2000 Fiscal Year.

## SECTION EIGHT: PERFORMANCE GOALS AND MEASURES

### SECTION 254(a)(8), PAGE 74

**HOW THE STATE WILL ADOPT PERFORMANCE GOALS AND MEASURES THAT WILL BE USED BY THE STATE TO DETERMINE ITS SUCCESS AND THE SUCCESS OF UNITS OF LOCAL GOVERNMENT IN THE STATE CARRYING OUT THE PLAN, INCLUDING TIMETABLES FOR MEETING EACH OF THE ELEMENTS OF THE PLAN, DESCRIPTIONS OF THE CRITERIA THE STATE WILL USE TO MEASURE PERFORMANCE AND THE PROCESS USED TO DEVELOP SUCH CRITERIA, AND A DESCRIPTION OF WHICH OFFICIAL IS TO BE HELD RESPONSIBLE FOR ENSURING THAT EACH PERFORMANCE GOAL IS MET.**

The Secretary of State, as Chief Elections Officer, in consultation with local elections officials and other interested parties, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, shall:

- ♦ develop performance goals and measures, with timetables, descriptions of criteria, the process used to develop the criteria, and identification of accountable officials, to determine the effectiveness of all programs and efforts receiving HAVA funds;
- ♦ monitor, through consultations with local elections officials and interested individuals and organizations, the performance of the state, units of local government and other entities with respect to reaching goals and each and every provision of HAVA.

## SECTION NINE: STATE-BASED ADMINISTRATIVE COMPLAINT PROCEDURES

### SECTION 254(a)(9), PAGE 74

#### A DESCRIPTION OF THE UNIFORM, NONDISCRIMINATORY STATE-BASED ADMINISTRATIVE COMPLAINT PROCEDURES IN EFFECT UNDER SECTION 402.

Section 402 (pages 126-128) requires the state to establish and maintain a state-based administrative complaint procedure that:

- ♦ is uniform and nondiscriminatory;
- ♦ allows any person who believes that there is a violation of any provision of Title III to file a complaint;
- ♦ requires that the complaint be in writing and be notarized;
- ♦ permits consolidation of complaints;
- ♦ requires that there be a hearing on the record if the complainant requests such;
- ♦ requires an appropriate remedy be provided if the State determines that there is a violation of Title III;
- ♦ provides that the complaint be dismissed and that the results be published if it is determined that there is no violation;
- ♦ requires a final determination be made within 90 days from the date the complaint is filed unless the complainant consents to a longer period for making such a determination;
- ♦ provides that alternative dispute resolution procedures be established for resolving the complaint within 60 days if the State fails to meet the 90 day deadline set forth above.

Under existing procedures, any person may complain to the Secretary of State, as Chief Elections Officer, that elections laws or procedures have been violated, are being violated or are about to occur. A toll-free telephone number for this purpose is provided and is widely disseminated. Complaints may also be submitted to the Secretary of State in writing. All credible allegations are investigated by one or more units of the Office of the Secretary of State, often in conjunction with local elections officials and other state officials.

The Secretary of State, after consulting with local elections officials and interested individuals and organizations, has established a uniform, nondiscriminatory state-based administrative complaint procedure in compliance with Section 402 of HAVA. The procedure provides individuals with a meaningful, expedited means of voicing a complaint concerning the implementation

of Title III of HAVA and an appropriate remedy if a violation has occurred. The procedure addresses the accessibility needs of minority language voters and individuals with disabilities.

The complaint procedure in effect authorizes any individual residing in the State of California to file a written complaint with the Secretary of State alleging that Title III has been violated, is being violated or is about to be violated. Pursuant to HAVA, the complaint must be notarized. (The Complainant must sign the complaint after being sworn by a notary public.) The complaint may be filed on a form prescribed and made available by the Secretary of State or on any other form that meets the specified requirements. Forms prescribed by the Secretary of State are required to be translated into appropriate languages. The Secretary of State will seek the assistance of an advisory committee to make the complaint procedure accessible to individuals with disabilities. The complaint may be filed in person at any office of the Secretary of State or mailed to Secretary of State, Elections Division, HAVA Complaint, 1500 11<sup>th</sup> Street, Sacramento, CA 95814. The complaint must be filed within 60 days after the occurrence of the alleged violation or within 90 days after the Complainant becomes aware of the alleged violation, whichever is later. The Secretary of State may consolidate complaints when appropriate. The Complainant may request a hearing on the record. The Secretary of State determines whether the hearing is oral or is based on written testimony. A final determination must be made within 90 days of filing the complaint. An appropriate remedy must be provided if a violation is found. In any case, the determination shall be in writing and must be posted on the Secretary of State's website, unless such posting might compromise a criminal investigation or other enforcement action. If a determination is not made within 90 days, then the complaint is referred to a neutral Hearing Officer who must make a determination within 60 days of the initial 90-day deadline. The determination must be posted on the Secretary of State's website, unless such posting might compromise a criminal investigation or other enforcement action.

## SECTION TEN: EFFECT OF TITLE 1 PAYMENTS

### SECTION 254(a)(10), PAGE 75

**IF THE STATE RECEIVED ANY PAYMENT UNDER TITLE I, A DESCRIPTION OF HOW SUCH PAYMENT WILL AFFECT THE ACTIVITIES PROPOSED TO BE CARRIED OUT UNDER THE PLAN, INCLUDING THE AMOUNT OF FUNDS AVAILABLE FOR SUCH ACTIVITIES.**

A total of \$84 million has been received, pursuant to HAVA Title I. Payments received pursuant to HAVA Section 101 have been used or will be used in accordance with HAVA Section 101(b)(1) (A)-(H) and Section 101(c). Funds received pursuant to HAVA Section 102 will be used, in accordance with Section 102(a)(2) to replace punch card voting systems in counties that used such systems in the 2000 General Election. The Title I funds, therefore, will supplement the requirements payment received pursuant to Title II.

## SECTION ELEVEN: HAVA STATE PLAN MANAGEMENT

### SECTION 254(a)(11), PAGE 75

**HOW THE STATE WILL CONDUCT ONGOING MANAGEMENT OF THE PLAN, EXCEPT THAT A STATE MAY NOT MAKE ANY MATERIAL CHANGE IN THE ADMINISTRATION OF THE PLAN UNLESS THE PLAN IS APPROPRIATELY NOTICED AND PUBLISHED IN THE *FEDERAL REGISTER*.**

The Secretary of State, as Chief Elections Officer, shall provide ongoing monitoring and oversight of compliance with the requirements of HAVA. To facilitate such, the Secretary of State shall require that:

- ♦ any official or other entity receiving any funds under HAVA will be required to make ongoing reports on progress of implementation;
- ♦ funds be awarded on a schedule or other basis that requires proof of satisfactory completion of one phase of a project before funds for the next phase are distributed;
- ♦ local elections officials and interested individuals and organizations, including the Members of the California State Plan Advisory Committee involved in the development of this Plan, be consulted on a continuing basis with respect to management of the State Plan and any perceived problems with its implementation and/or the need for material change;
- ♦ no material change be made in the administration of the State Plan prior to appropriate notice and publication in the *Federal Register*.

## SECTION TWELVE: CHANGES TO STATE PLAN FROM PREVIOUS FISCAL YEAR

### SECTION 254(a)(12), PAGE 75

IN THE CASE OF A STATE WITH A STATE PLAN IN EFFECT UNDER THIS SUBTITLE DURING THE PREVIOUS FISCAL YEAR, A DESCRIPTION OF HOW THE PLAN REFLECTS CHANGES FROM THE STATE PLAN FOR THE PREVIOUS FISCAL YEAR AND OF HOW THE STATE SUCCEEDED IN CARRYING OUT THE STATE PLAN FOR SUCH PREVIOUS FISCAL YEAR.

Not applicable. This is the first year of the California State Plan.

## SECTION THIRTEEN: STATE PLAN DEVELOPMENT COMMITTEE

### SECTION 254(a)(13), PAGE 76

**A DESCRIPTION OF THE COMMITTEE WHICH PARTICIPATED IN THE DEVELOPMENT OF THE STATE PLAN IN ACCORDANCE WITH SECTION 255 AND THE PROCEDURES FOLLOWED BY THE COMMITTEE UNDER SUCH SECTION AND SECTION 256.**

As discussed above in the Overview, this Plan was developed through a committee of twenty-four individuals representing a cross-section of Californians. As required by Section 255(a), the individuals included the chief elections officials of the two most populous jurisdictions conducting federal elections in California (Los Angeles and Orange Counties), other local elections officials, stake holders, including representatives of groups of individuals with disabilities, and other persons. The list of the members and biographical information begins on page 37.

The Committee, as discussed in the Overview, held five public hearings inviting and receiving comment from the public. The Committee thereafter met in Sacramento and the Members made recommendations to the Secretary of State with respect to the content of the Preliminary State Plan. Those recommendations, as well as the comments received from the public, were considered by the Secretary of State in drafting the Preliminary State Plan.

After the Preliminary Plan was made available for inspection and comment, additional comments were submitted by members of the public and by members of the Advisory Committee. These comments were carefully considered by the Secretary of State in preparing the California State Plan.

For a discussion of the procedures followed by the Committee in developing the State Plan, see the Overview on page 6.



## COMMITTEE MEMBERS





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**ROB MCKAY, CHAIR**  
**McKAY FOUNDATION**

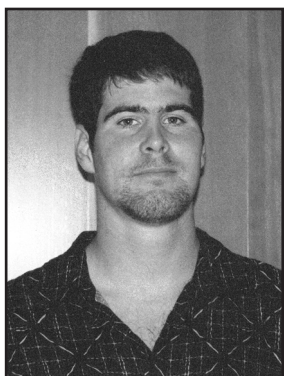
Mr. McKay is the President of the McKay Foundation, a family foundation that awards grants to community groups working for social and economic justice. He is also the managing partner of the McKay Investment Group, which provides venture capital for early-stage technology and consumer product companies. He is well-known in California for his work in promoting participation in the voting process. He was the proponent of Proposition 52 on the November 2002 ballot, a bi-partisan measure to establish Election Day Voter Registration in California.



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**R. MICHAEL ALVAREZ**  
**PROFESSOR OF POLITICAL SCIENCE, CALTECH**  
**CALTECH/MIT VOTING TECHNOLOGY PROJECT**

R. Michael Alvarez has taught political science at Caltech since December 1992. He received his B.A. in political science in 1986 from Carleton College; he received his M.A. and Ph.D. from Duke University in 1990 and 1992, respectively. He has focused most of his research and teaching on the study of electoral politics in the United States. Professor Alvarez is co-director of the Caltech/MIT Voting Technology Project, researching technological solutions to electoral problems. He is a Principal Investigator for the Secure Electronic Registration and Voting Experiment (SERVE), which is studying Internet voting for overseas civilians and military personnel through a contract with the Department of Defense. Alvarez has just completed a new book project with Thad Hall on the feasibility of Internet voting called "Point, Click and Vote."



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**HARLEY AUGUSTINO**  
**COALITION FOR A LIVING WAGE**

Harley Augustino is the Field Organizer for the Coalition for a Living Wage, a labor-community coalition in Santa Barbara that advocates for economic justice policies while building the power and leadership of low-income residents. A graduate of UCSB, he has led several campus and community-based voter registration and participation efforts. He co-founded the Isla Vista Tenants' Union in 1998, and was elected to a four-year term as a Director of the Isla Vista Recreation and Park District in 2000.



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**ROBERT BALGENORTH****STATE BUILDING AND CONSTRUCTION TRADES COUNCIL**

Robert Balgenorth is President of the State Building and Construction Trades Council of California, AFL-CIO since 1993. The Council, which represents more than 200 building trades local unions and regional councils, works to improve the economic condition, health and job safety of approximately 400,000 working men and women in the state's construction industry. In 1999, he was appointed to the Governor's Commission on Building for the 21<sup>st</sup> Century of which he serves as co-chair for the Facilities and Finance Committees. In 2002, he was appointed to the Workforce Investment Board and to the California Transportation Commission where he serves as Vice-Chair.



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**ARDIS BAZYN****CALIFORNIA COUNCIL OF THE BLIND**

Ardis Bazyn is currently Treasurer of the American Council of the Blind based in Washington, D.C.; Secretary for the California Council of the Blind; First Vice President of Independent Visually Impaired Entrepreneurs and Board Member of Randolph Shepard Vendors of America. She is a motivational speaker, coach and writer with Bazyn Communications. She has published numerous articles and Books. In 2001, she compiled a booklet for Blind Students of California, "A Guide to a Successful College Experience." She has owned several businesses and has been active in a variety of business and consumer organizations.



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**MIGUEL CONTRERAS****LOS ANGELES COUNTY FEDERATION OF LABOR AFL-CIO**

Miguel Contreras is the Executive Secretary-Treasurer of the Los Angeles County Federation of Labor, AFL-CIO. He is the first Latino elected leader of the 107 year old Federation of 350 affiliated unions representing more than 750,000 members. He serves on the Boards of the L.A. Convention and Visitors Bureau, United Way of Los Angeles, Los Angeles Airport Commission, and the California Narcotic Addicts Evaluation Authority. He has been listed in Hispanic Business Magazine's "100 Most Influential Hispanics" for the past three years.



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**FRANCISCO ESTRADA****MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND (MALDEF)**

Francisco Estrada is a Senior Policy Analyst in the Sacramento office of the Mexican American Legal Defense and Educational Fund (MALDEF) working on educational and land use issues. He represents MALDEF on the Steering Committee of the California Futures Network. Before his employment at MALDEF, he was a long-time staff member to Congressman Bob Filner. At the local and federal government level, he has worked on a number of issues including water, wastewater, transportation infrastructure projects, immigration, energy, and environmental protection.



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**KATHAY FENG****ASIAN PACIFIC AMERICAN LEGAL CENTER (APALC)**

Kathay Feng is the Program Director of the Voting Rights Unit at the Asian Pacific American Legal Center. She has worked in a variety of civil rights areas including voting rights and redistricting, hate crimes, police accountability, and anti-discrimination. She is currently involved in APALC's efforts to build a statewide network of advocates on key policy issues such as voting rights, language rights and consumer rights. Ms. Feng serves, or has served, on the Asian Pacific Policy & Planning Council, the California Secretary of State's Advisory Committee on Voter Participation and Outreach, LA County Human Relations Commission, LAPD Police Chief's API Forum, the Asian Pacific American Police Advisory Council, Organization of Chinese Americans, and the National Asian Pacific American Women's Forum's Los Angeles Board.



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**ROSALIND GOLD****NATIONAL ASSOCIATION OF LATINO ELECTED AND APPOINTED OFFICIALS (NALEO) EDUCATIONAL FUND**

Rosalind Gold serves as Senior Director of Policy, Research and Advocacy with the NALEO Educational Fund, where she has worked for over a decade on policy analysis and research for the naturalization and Latino political empowerment efforts of the organization. Her areas of expertise include election reform, the decennial Census and the restructuring of the nation's immigration bureaucracy. She received her J.D. from Harvard Law School and her B.A. from Pomona College in Claremont, California.



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**MARGARET JAKOBSON****PROTECTION & ADVOCACY, Inc. (PAI)**

Margaret Jakobson has worked for California Protection and Advocacy, Inc. (PAI) for sixteen years. She was a staff attorney serving clients with developmental disabilities for six years and then an attorney serving clients with physical, mental and sensory disabilities. Her specialties include special education issues, developmental disabilities service system eligibility, and Americans with Disabilities Act litigation, including public transit litigation. She became the managing attorney in the Oakland regional office in 1999 and held that position until her move to San Diego in 2001. In San Diego she set up a new PAI regional office, is the managing attorney of that office, and specializes in special education, Americans with Disabilities Act litigation, transportation law, voting rights and other service and civil rights advocacy for people with disabilities.



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**CYNDI JONES****EXPLODING MYTHS, Inc.**

Cyndi Jones is President of Exploding Myths, Inc. She draws on over 40 years of experience as an advocate for disability rights. As publisher, she promoted the growth of MAINSTREAM Magazine from a four page local newsletter to an award-winning glossy national magazine serving people with disabilities. She has served on many national panels on media and disability issues, including the New Directions for News conference at the Freedom Forum on underrepresented groups in the media in 1993.



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**LAURA KERR****CALIFORNIA STATE STUDENT ASSOCIATION**

Laura Kerr is the Director of Governmental Relations for the California State Student Association. She has been actively involved in statewide student advocacy and higher education policy since 1998. She is the registered lobbyist for the association and closely monitors the public policy developments, personalities, and institutions that affect CSU students and shape higher education politics in California. In this capacity, she coordinates the association's voter registration, voter education and get-out-the-vote campaigns and is the staff liaison to the California Youth Vote Coalition. She graduated from Humboldt State University in 2001.



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**GEOFFREY KORS**  
**EQUALITY CALIFORNIA (EQCA)**

Geoffrey Kors is the Executive Director of Equality California (EQCA), California's lesbian, gay, bisexual and transgender lobbying organization. Equality California was formerly known as California Alliance for Pride and Equality (CAPE). Mr. Kors is a graduate of Stanford Law School and has been active in the LGBT community for twenty years. Prior to joining EQCA, he was a partner in the law firm Wotman, Kors & Clouiter, LLP where he primarily handled gay rights matters. He has served as Director of both the Gay and Lesbian Rights and AIDS and Civil Liberties Projects of the ACLU of Illinois and as Chief of Staff to San Francisco Supervisor Leslie Katz. Mr. Kors originated San Francisco's Equal Benefits Ordinance which is now the basis of AB 17, a bill in the California Assembly.



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**CYNTHIA McCLAIN-HILL**  
**NATIONAL ASSOCIATION OF WOMEN BUSINESS OWNERS (NAWBO)**

Cynthia McClain-Hill is founder and principal of the law firm McClain-Hill Associates in Los Angeles. The law firm specializes in Land Use, Planning and Environmental Law, Public and Administrative Law and public policy development and advocacy. She currently serves on the Board of Directors of the National Health Foundation, is President Elect of the National Association of Women Business Owners-Los Angeles, a member of the UCLA Foundation Board of Councilors, and supports a host of charitable organizations aimed at enhancing opportunities for women and minorities. Ms. McClain-Hill has previously served the State of California as a member of the California Fair Political Practices Commission and now serves as the Governor of California's appointee to the California Coastal Commission.



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**CONNY MCCORMACK**  
**LOS ANGELES COUNTY REGISTRAR-RECORDER/COUNTY CLERK**

Conny McCormack is the Registrar-Recorder/County Clerk of Los Angeles County. As Registrar of Voters, she is responsible for conducting elections for the largest electoral jurisdiction in the U.S., with over 4 million registered voters and 5,000 voting precincts. She conducts federal, state and county elections and, via contract, conducts or supports local elections for 88 cities, 100 school districts and 149 special districts. Prior to becoming Registrar of Voters in Los Angeles, she served as Registrar of Voters for San Diego County from 1987 to 1994 and was Elections Administrator in Dallas County, Texas, from 1981-1987. Additionally, she has served as an international elections consultant in five countries.





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**ELISEO MEDINA**  
**ORGANIZATION OF LOS ANGELES WORKERS (OLAW)**

Eliseo Medina is International Executive Vice President of Service Employees International Union (SEIU) based in Los Angeles. He has helped to make SEIU the fastest-growing union on the West Coast and the largest union in California and the nation. In 1996, he made history when he was elected as the first Mexican-American to a top leadership post at the 1.5 million member SEIU. He has helped strengthen ties between the Catholic Church and the labor movement to work on common concerns such as immigrant worker rights and access to health care.



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**VIGO G. (CHIP) NIELSEN, JR.**  
**NIELSEN, MERKSAMER, PARRINELLO, MUELLER & NAYLOR, LLP**

Chip Nielsen is a prominent specialist in federal and California campaign, initiative, lobbying, conflict of interest and non-profit laws. His firm represents clients in campaign, lobbying and gift laws in all 50 states. He is Co-chair and Co-editor of Practising Law Institute's annual seminar and case book on "Corporate Political Activities," (1978-Present). He serves on the Advisory Board, Institute of Governmental Studies, University of California, Berkeley, (1993-Present). He has served as Legal Counsel to Governor Pete Wilson Committee (1989-1999); Senator Pete Wilson Committee (1981-1991); Art Agnos for San Francisco Mayor (1987-1991); George Moscone for San Francisco Mayor (1975-1978).



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**ART PULASKI**  
**CALIFORNIA LABOR FEDERATION, AFL-CIO**

Art Pulaski is the Executive Secretary Treasurer of the California Labor Federation, AFL-CIO. During his tenure in office, the rank and file members in the Federation have doubled. As President of "We Do the Work," he helped craft the successful, nationally televised PBS series. He serves on the boards of the Council for Economic and Environmental Balance, the Labor Project for Working Families, State Workforce Investment Board, Governor's Commission on Building for the 21<sup>st</sup> Century and Potomac Board of Governors.





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**ANN REED****PRESIDENT, CALIFORNIA ASSOCIATION OF CLERKS AND ELECTIONS OFFICIALS AND  
THE SHASTA COUNTY REGISTRAR OF VOTERS**

Ann Reed is currently President of the California Association of Clerks and Elections Officials. She is the elected Shasta County Clerk/Registrar of Voters, having first been elected in 1982. Prior to her election, she had been the Assistant County Clerk/Recorder of Voters since 1978, and had worked in the office since 1963.



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**STEVE RODERMUND****ORANGE COUNTY REGISTRAR OF VOTERS**

Steve Rodermund is the Orange County Registrar of Voters. Orange County is California's second most populous county with 1.3 million registered voters, requiring language support in English, Chinese, Korean, Spanish, and Vietnamese. Orange County is currently replacing its punch card voting system with the Hart DRE system, with countywide implementation in March 2004. Mr. Rodermund retired from the military in 1992. Since then he has served in various positions with the Orange County Transportation Authority and in Orange County's County Executive Office.



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**ARTURO RODRIGUEZ****UNITED FARM WORKERS OF AMERICA, AFL-CIO**

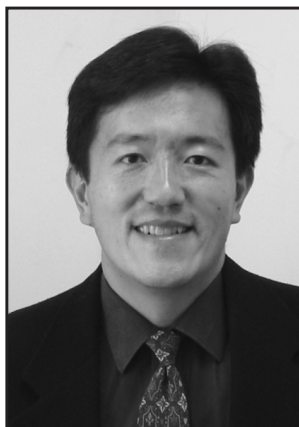
Arturo Rodriguez is the President of United Farm Workers of America, AFL-CIO. As President, he is carrying on the work of the union founded by Cesar Chavez, who died in 1993. Mr. Rodriguez succeeded Mr. Chavez to the presidency. He has been active with the union and its mission since 1969. In 1995, he was elected to the AFL-CIO's governing Executive Council.



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**MARION TAYLOR**  
**LEAGUE OF WOMEN VOTERS OF CALIFORNIA**

Marion Taylor is Government Director for the League of Women Voters of California. A member of the League of Women Voters since 1968, she has been active in the League's Voters Service work, particularly making presentations on pros and cons of statewide ballot measures and moderating candidate forums. She contributes information to Smart Voter, the League's online guide which provides access to a ballot customized for a particular address and integrates information from elections officials, candidates, newspapers, and nonpartisan websites. She was a librarian at the University of California at Santa Cruz for 25 years.



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**TED WANG**  
**CHINESE FOR AFFIRMATIVE ACTION (CAA)**

Ted Wang is the Policy Director for Chinese for Affirmative Action (CAA), where he oversees advocacy on civil rights issues affecting Asian Americans and supervises job training for low-wage workers. Mr. Wang has drafted a number of immigrant and civil rights laws and policies at both the state and local levels in California, litigated cases under the federal Voting Rights Act and National Voter Registration Act, and helped develop local plans to implement the language assistance requirements of Section 203 of the VRA, as well as procedures for allowing eligible prisoners to vote in San Francisco county jails. Prior to joining CAA, Mr. Wang was staff attorney with the Lawyers' Committee for Civil Rights of the San Francisco Bay Area.



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**DR. GERALDINE WASHINGTON**  
**NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF  
COLORED PEOPLE (NAACP)**

Dr. Geraldine Washington is President of the Los Angeles NAACP. She has served as NAACP Branch President and Vice President, President and Vice President for Women In NAACP and Win Coordinator for Region I, which consists of nine western states, Japan, Germany and Korea. She serves on the Los Angeles County EEOC Advisory Council, Media Image Coalition (Human Relations Sub-Committee), and African American Jewish Leadership Connection.

## ENDNOTES



## ENDNOTES

- <sup>1</sup> Voting-eligible turnout estimate by Dr. Michael P. McDonald, George Mason University, see [http://elections.gmu.edu/voter\\_turnout.htm](http://elections.gmu.edu/voter_turnout.htm).
- <sup>2</sup> *Report of Registration*, Secretary of State, February 10, 2003.
- <sup>3</sup> *Elections Code* § 10, Government Code § 12172.5.
- <sup>4</sup> *Report of Registration*, Secretary of State, February 10, 2003.
- <sup>5</sup> Stats.2001, c. 922 (AB 1520-Shelley)
- <sup>6</sup> Public Law 107-252.
- <sup>7</sup> All comments received, as well as all documents and other materials produced in connection with the hearings, are available for review in the Office of the California Secretary of State, Elections Division, 1500 11<sup>th</sup> Street, 5<sup>th</sup> Floor, Sacramento, California 95814.
- <sup>8</sup> All comments received, as well as all documents and other materials produced in connection with the State Plan, are available for review in the Office of the California Secretary of State, Elections Division, 1500 11<sup>th</sup> Street, 5<sup>th</sup> Floor, Sacramento, California 95814.
- <sup>9</sup> Page references are to the pages of the final version of HAVA, as posted on the California Secretary of State's website at [www.ss.ca.gov](http://www.ss.ca.gov).
- <sup>10</sup> Unless otherwise noted, all Title references are to HAVA.
- <sup>11</sup> Elections Code Section 10 and Government Code Section 12172.5.
- <sup>12</sup> Elections Code Section 10 and Government Code Section 12172.5.
- <sup>13</sup> Elections Code Section 10 and Government Code Section 12172.5.
- <sup>14</sup> Under specified circumstances, the State can seek a waiver of the requirement until January 1, 2006. The deadline for seeking a waiver is January 1, 2004.
- <sup>15</sup> Elections Code Section 10 and Government Code Section 12172.5.
- <sup>16</sup> The effective date depends on the application of Section 303(d)(1)(A) or (B).
- <sup>17</sup> Elections Code Section 10 and Government Code Section 12172.5.
- <sup>18</sup> Elections Code Section 10 and Government Code Section 12172.5.
- <sup>19</sup> This assumes that California does not have a HAVA-compliant statewide voter registration database in place.
- <sup>20</sup> Elections Code Section 10 and Government Code Section 12172.5.
- <sup>21</sup> Elections Code Section 10 and Government Code Section 12172.5.
- <sup>22</sup> This assumes a total appropriation of \$830 million rather than the \$1.4 billion authorized for FY 2003 by HAVA Section 257(a)(1). No assumption is made with respect to appropriations in subsequent years.





